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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-196202

DATE: June 13, 1980

MATTER OF: Allyn T. Baskerville - Relocation Expenses and  
Realtor's Fee ]

*[Request for]*

DIGEST: Employee may not be authorized payment of realtor's fee for sale of land incident to permanent change of station. Employee occupied rental quarters from which he commuted daily to and from work not residence on land that he owned. Prior decisions of this Office cited in support of employee's claim are inapposite since employee did not construct home on property and land never became site of residence.

This action is in response to a request for reconsideration by Mr. Allyn T. Baskerville of our decision B-196202, March 12, 1980. Mr. Baskerville's claim for reimbursement for a realtor's fee for the sale of land incident to a permanent change of station was denied because he did not construct a home on the property and land alone could not be defined as the residence from which he regularly commuted to and from work.

Mr. Baskerville has based his request for reconsideration on our decisions, B-168818, February 9, 1970, and B-168186, November 24, 1969. We held in those decisions that an employee was entitled to reimbursement for the selling expenses of a house where the employee was precluded from establishing his residence in the house because of a transfer.

The statutory authorization for the reimbursement of expenses of the sale of the employee's residence at his old duty station is contained in 5 U.S.C. § 5724a(a)(4) (1976). Section 2-6.1d of the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973) implementing that statute provides that reimbursement of the expenses of selling the old residence may be made provided the dwelling for which reimbursement of selling expenses is claimed was the employee's residence at the time he was first definitely informed by competent authority of his transfer to the new official station. The term "residence" is defined in paragraph 2-1.4i of the FTR as "the residence or other quarters from which the employee regularly commutes to and from work."

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Ordinarily a literal interpretation of the above regulation would preclude any reimbursement of selling expenses of a dwelling not used as a residence. However, this Office has allowed reimbursement on a case-by-case basis where there has been a substantial compliance with the occupancy requirement of paragraph 2-6.1d of the FTR. Thus, in B-168818, and B-168186, supra, cited by Mr. Baskerville in support of his claim, the employees involved had entered into construction contracts prior to their notification of permanent change of station transfers. The employees went through with the final construction and purchase of residences within a month or two of their notifications of transfer. We held that the employees were entitled to reimbursement for selling expenses since they were unable to cancel the purchase contracts and were precluded from establishing residency in the houses because of transfers. Similarly, in Gerald C. Newmeyer, B-193808, October 4, 1979, we held that an employee whose mobile home was destroyed by fire and who was living in temporary quarters had substantially complied with the occupancy requirements of the regulations since he would have resided in the home but for the fire. See also Joseph L. White, 58 Comp. Gen. 208 (1979), and Lloyd E. McLaughlin, B-189997, February 1, 1978.

We believe that the facts in this case show that Mr. Baskerville did not satisfy the occupancy requirements of the regulations. Mr. Baskerville occupied rental quarters for his entire 2-year tour of duty in Alaska, and he never established a residence on the land he owned. See G. F. McBride, B-187088, February 3, 1977, and B-177643, April 9, 1973. In those cases we denied reimbursement because the employees had moved from the houses which they sold and were actually residing in rental quarters at the time they received definite notices of transfer.

We further believe that our holdings in B-168818, and B-168186, are inapposite because Mr. Baskerville purchased only the land and did not continue the construction or placement of a home on the property. Rather, he ordered a mobile home but canceled the order prior to shipment and the land never became the site of a residence.

Accordingly, our decision of March 12, 1980, is sustained.



Acting Comptroller General  
of the United States